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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision : 10.01.2023*

+ **W.P.(C) 255/2023**

HINDUSTAN GOLD REFINERS & MINT PRIVATE LTD

..... Petitioner

Through: Dr Rakesh Gupta, Advocate.

versus

NATIONAL FACELESS ASSESSMENT CENTRE, & ANR.

..... Respondents

Through: Mr Ajit Sharma, Sr. Standing
Counsel.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MS JUSTICE TARA VITASTA GANJU

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 963/2023

1. Allowed, subject to the petitioner filing legible copies of the annexures, at least three days before the next date of hearing.

W.P.(C) 255/2023 and CM APPL. 962/2023 [Application filed on behalf of the petitioner seeking interim relief]

2. Issue notice.

2.1 Mr Ajit Sharma accepts notice on behalf of the respondents/revenue.

2.2 In view of the directions that we intend to pass and having regard to the record made available to the court, Mr Sharma says that counter-

affidavit need not be filed.

3. Accordingly, with the consent of counsel for the parties, the writ petition is taken up for hearing and final disposal at this stage itself.

4. This writ petition is directed against the order dated 24.12.2022 passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 [in short, “the Act”].

4.1 In addition thereto, challenge is also laid to the notice of demand dated 24.12.2022 issued under Section 156 of the Act and the notice initiating penalty under Section 270A to 271AAC.

5. The record shows that the petitioner had filed a return concerning Assessment Year (AY) 2021-2022 on 14.01.2022.

6. On 27.06.2022, the petitioner was issued a letter intimating that assessment in accordance with the provisions of Section 144B of the Act had been completed.

7. Thereafter, on 28.06.2022 a notice under Section 143(2) of the Act was issued.

7.1 The aforesaid notice was followed by notice dated 29.09.2022 issued *qua* the petitioner under Section 142(1) of the Act. This notice was apparently replied to by the petitioner on 20.10.2022.

7.2 The respondents/revenue issued further notices under Section 142(1) of the Act on 10.11.2022 and 15.11.2022. These notices were replied by the petitioner on 12.11.2022 and 22.11.2022 respectively. As a matter of fact, two replies dated 22.11.2022 appear to have been filed by the petitioner.

8. According to the petitioner, the respondents/revenue proposed a variation in the income written by the petitioner *via* show cause notice dated 08.12.2022. The petitioner was, however, given time till 15.12.2022 to file a

response to the said show cause notice.

9. The petitioner avers that on 15.12.2022, extension of time was sought to file a response till 18.12.2022.

10. Apparently, designated portal was closed on 15.12.2022, and therefore the petitioner could file the reply only on 16.12.2022, *albeit via e-mail*. The impugned order dated 24.12.2022 was passed without the Assessing Officer (AO) having benefit of the reply filed by the petitioner on 16.12.2022.

11. Given the fact that a short accommodation was sought by the petitioner on 15.12.2022, we are of the view that the AO ought to have given petitioner time till 18.12.2022 to submit a reply.

12. Notwithstanding the request made, the petitioner did file a reply on 16.12.2022 *albeit via e-mail*. Therefore, in fitness of things, we are of the view that impugned order should be set aside, with liberty to the AO to carry out a fresh exercise.

12.1 It is ordered accordingly.

13. The AO will carry out a *de novo* exercise from the stage at when show cause notice dated 08.12.2022 was positioned and frame an assessment order, after taking into account the reply dated 16.12.2022 filed by the petitioner.

13.1 Since Dr Rakesh Gupta, at this stage, says that the petitioner would want a personal hearing in the matter as well, the AO will accord opportunity to the authorized representative of the petitioner to be heard in-person.

13.2 The AO will issue a notice fixing the date and time.

13.3 The AO will grant hearing to the authorized representative of the

petitioner *via* video-conferencing (VC).

14. The writ petition is disposed of in the aforesaid terms.

15. Needless to state, since we have not examined the matter on merits, nothing stated above will impact the merits of the case.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

JANUARY 10, 2023 / tr

